

By: White

H.B. No. 3069

Substitute the following for H.B. No. 3069:

By: Smithee

C.S.H.B. No. 3069

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the administration of and eligibility for participation  
3 in a veterans treatment court program and the issuance of orders of  
4 nondisclosure for certain participants who successfully complete  
5 that program.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 124.001(b), Government Code, is amended  
8 to read as follows:

9 (b) If a defendant who was arrested for or charged with, but  
10 not convicted of or placed on deferred adjudication community  
11 supervision for, an offense successfully completes a veterans  
12 treatment court program, after notice to the attorney representing  
13 the state and a hearing in the veterans treatment court at which  
14 that court determines that a dismissal is in the best interest of  
15 justice, the court in which the criminal case is pending shall  
16 dismiss the case against the defendant.

17 SECTION 2. Sections 124.002(a) and (c), Government Code,  
18 are amended to read as follows:

19 (a) The commissioners court of a county may establish a  
20 veterans treatment court program for persons arrested for, ~~or~~  
21 charged with, convicted of, or placed on deferred adjudication  
22 community supervision for any misdemeanor or felony offense. A  
23 defendant is eligible to participate in a veterans treatment court  
24 program established under this chapter only if the attorney

1 representing the state consents to the defendant's participation in  
2 the program and if the court in which the criminal case is pending  
3 or in which the defendant was convicted or placed on deferred  
4 adjudication community supervision, as applicable, finds that the  
5 defendant is a veteran or current member of the United States armed  
6 forces, including a member of the reserves, national guard, or  
7 state guard, who:

8 (1) suffers from a brain injury, mental illness, or  
9 mental disorder, including post-traumatic stress disorder, or was a  
10 victim of military sexual trauma if the injury, illness, disorder,  
11 or trauma [~~that~~]:

12 (A) occurred during or resulted from the  
13 defendant's military service; and

14 (B) affected the defendant's criminal conduct at  
15 issue in the case; or

16 (2) is a defendant whose participation in a veterans  
17 treatment court program, considering the circumstances of the  
18 defendant's conduct, personal and social background, and criminal  
19 history, is likely to achieve the objective of ensuring public  
20 safety through rehabilitation of the veteran in the manner provided  
21 by Section 1.02(1), Penal Code.

22 (c) Proof of matters described by Subsection (a) may be  
23 submitted to the applicable criminal court [~~in which the criminal~~  
24 ~~case is pending~~] in any form the court determines to be appropriate,  
25 including military service and medical records, previous  
26 determinations of a disability by a veteran's organization or by  
27 the United States Department of Veterans Affairs, testimony or

1 affidavits of other veterans or service members, and prior  
2 determinations of eligibility for benefits by any state or county  
3 veterans office. The court's findings must accompany any docketed  
4 case.

5 SECTION 3. Section 124.003(a), Government Code, is amended  
6 to read as follows:

7 (a) A veterans treatment court program established under  
8 this chapter must:

9 (1) if there has not yet been a disposition in the  
10 criminal case, ensure that a defendant eligible for participation  
11 in the program is provided legal counsel before volunteering to  
12 proceed through the program and while participating in the program;

13 (2) allow a participant arrested for or charged with  
14 an offense to withdraw from the program at any time before a trial  
15 on the merits has been initiated;

16 (3) provide a participant with a court-ordered  
17 individualized treatment plan indicating the services that will be  
18 provided to the participant; and

19 (4) ensure that the jurisdiction of the veterans  
20 treatment court continues for a period of not less than six months  
21 but does not continue beyond the period of community supervision  
22 for the offense charged.

23 SECTION 4. Subchapter E-1, Chapter 411, Government Code, is  
24 amended by adding Section 411.0727 to read as follows:

25 Sec. 411.0727. PROCEDURE FOLLOWING SUCCESSFUL COMPLETION  
26 OF VETERANS TREATMENT COURT PROGRAM. (a) This section applies only  
27 to a person who successfully completes a veterans treatment court

1 program under Chapter 124 or former law.

2 (b) Notwithstanding any other provision of this subchapter  
3 or Subchapter F, a person described by Subsection (a) is entitled to  
4 file with the court that placed the person in the veterans treatment  
5 court program a petition for an order of nondisclosure of criminal  
6 history record information under this section if the person:

7 (1) satisfies the requirements of this section;

8 (2) has never been previously convicted of an offense  
9 listed in Article 42A.054(a), Code of Criminal Procedure, or a  
10 sexually violent offense, as defined by Article 62.001, Code of  
11 Criminal Procedure; and

12 (3) is not convicted of any felony offense between the  
13 date on which the person successfully completed the program and the  
14 second anniversary of that date.

15 (c) Regardless of whether the person was convicted of or  
16 placed on deferred adjudication community supervision for the  
17 offense for which the person entered the veterans treatment court  
18 program or whether the case against the person was dismissed under  
19 Section 124.001(b), after notice to the state, an opportunity for a  
20 hearing, and a determination that the person is entitled to file the  
21 petition and issuance of the order is in the best interest of  
22 justice, the court shall issue an order prohibiting criminal  
23 justice agencies from disclosing to the public criminal history  
24 record information related to the offense for which the person  
25 entered the veterans treatment court program.

26 (d) A person may file with the court that placed the person  
27 in the veterans treatment court program a petition for an order of

1 nondisclosure of criminal history record information under this  
2 section only on or after the second anniversary of the date the  
3 person successfully completed the program.

4 (e) A person is not entitled to petition the court for an  
5 order of nondisclosure of criminal history record information under  
6 this section if the person's entry into the veterans treatment  
7 court program arose as the result of a conviction of an offense  
8 involving the operation of a motor vehicle while intoxicated.

9 SECTION 5. Section 411.074, Government Code, is amended by  
10 adding Subsection (c) to read as follows:

11 (c) This section does not apply to an order of nondisclosure  
12 of criminal history record information under Section 411.0727.

13 SECTION 6. (a) The change in law made by this Act by  
14 amending Sections 124.002 and 124.003, Government Code, applies to  
15 a person who, on or after the effective date of this Act, enters a  
16 veterans treatment court program created under Chapter 124,  
17 Government Code, regardless of whether the person entering the  
18 program committed the offense for which the person enters the  
19 program before, on, or after the effective date of this Act.

20 (b) The change in law made by this Act by adding Section  
21 411.0727, Government Code, applies to a person who, on or after the  
22 effective date of this Act, enters a veterans treatment court  
23 program created under Chapter 124, Government Code, or former law,  
24 regardless of whether the person entering the program committed the  
25 offense for which the person enters the program before, on, or after  
26 the effective date of this Act.

27 SECTION 7. This Act takes effect September 1, 2017.